

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION**

HOWARD RAY GARRISON, JR.)	Civil Action No. 7:13cv00361
Plaintiff,)	
)	
v.)	<u>MEMORANDUM OPINION</u>
)	
COMMONWEALTH OF VIRGINIA,)	By: Norman K. Moon
Defendant.)	United States District Judge

Howard Ray Garrison, Jr., a Virginia inmate proceeding *pro se*, filed this civil rights action pursuant to 42 U.S.C. § 1983. Garrison has not submitted payment of the filing fee and, thus, I will liberally construe his complaint as a request to proceed *in forma pauperis* and grant that request. However, I find that Garrison has not stated a claim upon which relief may be granted and, therefore, I will dismiss this action without prejudice pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii).

I.

Garrison alleges that he filed a “petition for relief of fines and penalties” in the Louisa County Circuit Court on the basis that he is unable to pay because he is unable to work. Garrison states that the judge denied his petition on the basis that there were no fines imposed. As relief, Garrison asks the court to “grant [his] petition so [his] fines, court costs, and restitution will be paid.” To state a claim for relief under §1983, a plaintiff must allege facts indicating that plaintiff has been deprived of rights guaranteed by the Constitution or laws of the United States and that this deprivation resulted from conduct committed by a person acting under color of state law. *West v. Atkins*, 487 U.S. 42 (1988). In this case, Garrison has not alleged that he has been

deprived of any right guaranteed by the Constitution or laws of the United States and, therefore, I find that he has failed to state a claim under § 1983.¹

II.

For the reasons stated, I will dismiss Garrison's complaint without prejudice pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii).

The Clerk is directed to send a copy of this Memorandum Opinion and accompanying Order to plaintiff.

ENTER: This 9th day of August, 2013.



NORMAN K. MOON
UNITED STATES DISTRICT JUDGE

¹ Moreover, the court will not construe his complaint as a petition for writ of mandamus because district courts do not have jurisdiction to grant mandamus relief against state officials. *See Gurley v. Super. Ct. of Mecklenburg Cnty*, 411 F.2d 586, 587 (4th Cir. 1969).